

**DIRECTIVE NUMBER/TITLE:** DOE ORDER 442.1A: DEPARTMENT OF ENERGY  
EMPLOYEE CONCERNS PROGRAM

**ORIGINATING OFFICE:** OFFICE OF EMPLOYEE CONCERNS, ED-5

**REVIEW TEAM MEMBERS:** Steven Mournighan, Donald Wirick and Bill Lewis

**BACKGROUND:**

- Why, when and how was the Order and its contractor requirements document established?
- What major modification and recent updates have been made?

On January 15, 1993, DOE Order 5480.29, Employee Concerns Management System was established and that order was superseded on February 1, 1999 when DOE Order 442.1, Department of Energy Employee Concerns Program, was approved. Following the advent of the National Nuclear Security Administration (NNSA) when all DOE Orders were reviewed to address the applicability - or non-applicability to NNSA, the Order was again approved as DOE Order 442.1A on June 6, 2001.

**OVERVIEW OF REQUIREMENTS:**

- What is the Order's purpose and how is it accomplished?
- What is the Contractor Requirements Document (CRD) and how is it accomplished?

The purpose of the order is to establish a Department of Energy Employee Concerns Program that ensures employee concerns related to such issues as the environment, health and management

of DOE programs and facilities are addressed through:

- (a) prompt identification, reporting, and resolution of employee concerns regarding DOE facilities or operations in a manner that provides the highest degree of safe operations;
- (b) free and open expression of employee concerns that results in an independent, objective evaluation; and
- (c) supplementation of existing processes with an independent avenue for reporting concerns.

The sole attachment to DOE Order 442.1A is the Contractor Requirements Document (CRD) which states:

In support of the effective implementation of the Department of Energy (DOE) Employee Concerns Program (ECP), contractors are required to--

- assist DOE in the resolution of employee concerns in a manner that protects the health and safety of both employees and the public and ensures effective and efficient operation of DOE-related activities under their jurisdiction;
- ensure that contractor and subcontractor employees are advised that they have the right and responsibility to report concerns relating to the environment, safety, health, or management of DOE-related activities; and
- cooperate with assessments used to verify that they have acted to minimize, correct, or prevent recurrence of the situation that precipitated a valid concern.

#### **ANALYSIS:**

- Do we still need to apply the Order to contractors?
- If so, are there attentive less bureaucratic approaches?
- Are there any other useful changes to the contractor requirements document?

The Department of Energy recognizes that the free and open expression of DOE Federal, contractor and subcontractor employee concerns is essential to safe and efficient accomplishment of DOE's missions. DOE employees and any contractor or subcontractor fulfilling DOE's mission have the right and responsibility to report concerns relating to the environment, safety, health or management of Department operations.

Employees are responsible for reporting conditions that adversely affect the quality or safety of DOE operations, and for identifying and preventing harassment and intimidation of co-workers.

This responsibility/commitment should apply to all DOE employees, be they federal or contractors. It is not clear what less bureaucratic approaches could be substituted, given the purpose of the Order, that would make DOE a safer, well managed institution.

#### **SUMMARY RECOMMENDATIONS:**

Order 442.1A should not be changed inasmuch as it imposes no burden on contractors or their employees.

This order promotes a salutary goal: to foster open communication among all DOE employees to ensure the safety, health and well being of DOE work sites throughout the complex. This Order also incorporates the Department's "zero tolerance for reprisal" policy, first articulated in 1993.

**MINORITY VIEWS:**

One comment received suggested the Order was unnecessary since contractors already pursue these types of claims and, therefore, it was duplicative. This is not true, as borne out by the data collected over the past five years by Employee Concerns Managers throughout the DOE complex.

**ORIGINATING OFFICE COMMENTS:**

This order complements the DOE Contractor Employee Protection Program at 10 C.F.R. Part 708, which prohibits contractors from retaliating against contractor employees who engage in protected conduct (i.e. disclosing information that an employee reasonably and in good faith believes reveals a substantial and specific danger to employees or to the public health and safety). See DOE O 442.1A section 6(e).

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